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Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities
Sixteenth session

Summary record of the 280th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 23 August 2016, at 10 a.m.

Chair: Ms. Cisternas Reyes

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Initial report of Guatemala (continued)

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by parties to the Convention under article 35 (*continued*)

Initial report of Guatemala (continued) (CRPD/C/GTM/1; CRPD/C/GTM/Q/1 and Add.1)

1. *At the invitation of the Chair, the delegation of Guatemala took places at the Committee table.*

Articles 11-20

2. **Mr. Morán Herrera** (Guatemala), replying to a question posed by the Chair at the previous meeting, said that the rural development bill No. 4084 had not yet been adopted. However, the National Development Plan 2014-2032 included recognition of the fact that persons with disabilities were among the groups that faced the worst levels of exclusion. The Plan required all public institutions to take steps to uphold the rights of persons with disabilities to social protection, health care and education for all children from birth to the age of 18 years. In addition, the National Policy for Comprehensive Rural Development sought to promote inclusive human development, recognizing the multicultural nature of the country's population. While the Policy did not include specific reference to persons with disabilities, they were understood to be one of the most vulnerable groups in the rural community.

3. **Mr. Canto Mejía** (Guatemala) said that the Act on Femicide and Other Forms of Violence against Women strengthened protection for women victims of violence. The Code of Criminal Procedure provided for protection measures for victims of such violence. Where the victim had a disability, that was considered an aggravating circumstance. The Supreme Court had put in place protocols for dealing with cases involving violence against women, particularly sexual violence. There were no laws or policies in his country that encouraged or in any way allowed forced sterilization, which was prohibited under several laws. There was, however, a need to promote a culture of reporting and to establish appropriate mechanisms to guard against impunity if forced sterilization did take place.

4. The Code of Criminal Procedure provided that interpreters must be present, whenever they were needed by victims of crime, for indigenous languages or any type of non-verbal communication. The judge in charge of the case was responsible for ensuring that interpretation was available in order to enable communication between the victim and the court.

5. Under article 13 of the Act on the Comprehensive Protection of Children and Adolescents, the State respected parents' and legal guardians' right to discipline their children using prudent means. The State had undertaken a thorough review of the Act and found that it did not authorize corporal punishment in any way. The Act took full account of the principle of the best interests of the child. Protocols had been established in the education system on identifying and addressing cases of violence against children. Specific protection mechanisms were in place for girls who were victims of sexual violence. While the Government had taken numerous steps to improve child protection, it recognized that much remained to be done and would appreciate the Committee's recommendations in that regard.

6. Guatemala had ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization. In addition, under the Agreement on Identity and Rights of Indigenous People, the Government had undertaken to recognize the country's linguistic, cultural and ethnic diversity. Some 60 per cent of the population was currently considered indigenous, with most members of indigenous communities living in

poverty in rural areas, which made them vulnerable on several fronts. The Government was well aware that members of those communities with disabilities required additional assistance from the State to ensure that they were able to enjoy their rights on an equal footing with other citizens. Relevant measures were being taken at the inter-agency level in the areas of education, health care and social support programmes in order to ensure that those persons could be socially mobile.

7. **Mr. Ramírez Reyes** (National Council for Persons with Disabilities, Guatemala) drew attention to article 3 of the Public Notaries Code, which prohibited blind persons, deaf persons, persons who were mute and persons with any other type of physical or intellectual disability from working as public notaries. The National Council for Persons with Disabilities had been working for a reform of the Code.

8. On 20 November 2012, the Inter-American Commission on Human Rights had granted precautionary measures for 334 patients at the Federico Mora National Mental Health Hospital on the grounds that everyone hospitalized there was at risk. The Commission had been informed about the physical and sexual abuse of women and children and about patients being denied proper medical care, given inappropriate psychiatric treatment, locked in isolation rooms and tied to chairs. The Commission had requested that the Government should adopt measures to guarantee the life and personal integrity of the patients and provide them with proper medical care in accordance with their individual needs. It had also requested the Government to ensure that children were separated from adults; to keep patients who had been prosecuted and sentenced, or who were being deprived of liberty under court order, separate from the other patients and ensure that the other patients were protected by unarmed hospital staff; restrict the use of isolation rooms in accordance with international standards; and to implement immediate prevention measures so that no patients, especially women and children, were subjected to acts of physical, psychological or sexual violence by other patients, security agents or hospital staff. As of 2015, all the staff had been trained in the provision of appropriate treatment for persons with disabilities, particularly the need to administer treatment on the basis of informed consent. Six psychologists had been employed in order to ensure that patients with disabilities were treated in accordance with their rights. Patients with disabilities had been separated from those who had been prosecuted, and the security guards employed at the hospital had also been given appropriate training.

9. The Ministry of Health allocated some 10 million quetzales a year to the disability telethon on the understanding that the money would be distributed to organizations and institutions to which patients had been referred by the Ministry. However, the telethon had been found not to have honoured that commitment and had therefore been fined. Nonetheless, it continued to be allocated government funds, and usually received some 28 million quetzales in contributions from the public. Oversight mechanisms were clearly needed, particularly to ensure that images of persons with disabilities were not used in campaigns aimed at collecting funds that were then not spent on the care of those persons. He looked forward to hearing the Committee's recommendations in that regard.

10. **Mr. Cruz Cruz** (National Council for Persons with Disabilities, Guatemala) said that bill No. 5125 provided for support services for persons with disabilities in order to guarantee that they could fully engage in all areas of life, including the realization of their right to transportation and to human and technological assistance.

11. The National Coordinating Office for Disaster Reduction had been created under Decree Law No. 109-96 as the lead agency for services to persons in situations of risk and humanitarian emergencies. It was made up of representatives of public institutions, private humanitarian assistance agencies, relief agencies and civil society organizations. While the Coordinating Office had been working since 2008 to assist persons with disabilities who were affected by natural disasters and other emergency situations, its approach had not been

sufficiently systematic and it had not been involved in projects led by other national and international bodies on including persons with disabilities in natural disaster preparedness. An agreement had therefore been drawn up to promote close partnership in the area of disaster risk reduction between the Coordinating Office and the National Council for Persons with Disabilities. The agreement was based on the Sendai Framework for Disaster Risk Reduction, which indicated that persons with disabilities and their organizations were critical in the assessment of disaster risk and in designing and implementing plans tailored to specific requirements. The Coordinating Office was currently reviewing the agreement, but a round table of experts from both institutions was already working on an action plan. In addition, training had been provided to raise awareness among armed forces personnel of the rights of persons with disabilities.

12. The signing of the Agreement on a Firm and Lasting Peace had constituted a significant step forward for the country in terms of promoting the rights of persons with disabilities. During the peace negotiations, agreement had been reached on the need to adopt a mechanism for the inclusion and reintegration of the members of the Unidad Revolucionaria Nacional Guatemalteca (Guatemalan National Revolutionary Union), the Guatemalan army and civil society who had disabilities as a result of the armed conflict. The resulting legislation had specified that the mechanism would include all persons with disabilities. A centre had been set up for war veterans with disabilities, who now received a war pension. The country now faced the challenge of finding a way to provide those same benefits to all persons with disabilities.

13. **Mr. Toledo Sebastián** (National Council for Persons with Disabilities, Guatemala) said that the Assistance to Persons with Disabilities Act was being revised with input from various stakeholders, including the departmental disability commissions. The legal capacity of persons with disabilities was being reviewed and funding was being sought to finance the harmonization of the Act with the Convention. A handbook on natural disasters and persons with disabilities had been issued in cooperation with the United Nations Children's Fund (UNICEF). Central Government had been alerted to the issue of persons with disabilities in natural disasters and the need to include persons with disabilities in disaster risk management programmes.

14. The security services required training in handling persons with disabilities. The National Council for Persons with Disabilities was working with the Ministry of the Interior in that regard and was working with the transport police to ensure that their personnel were properly informed about disability. Inevitably, the country's high crime rates had an impact on the safety of persons with disabilities. Although Guatemala lagged behind some other countries with regard to independent living, the matter would be addressed in the review of the Assistance to Persons with Disabilities Act, to ensure that persons with disabilities could receive the care they needed.

15. The Human Rights Advocate carried out work at the borders where refugees crossed. The Human Rights Directorate of the Ministry of Foreign Affairs had developed initiatives to care for persons who had been injured or disabled on the network of freight trains that crossed from Mexico to the United States of America, known as the "death train", although it was difficult to follow up, once persons who had been detained and sent back to Guatemala returned to their communities. The Ministry of Foreign Affairs should monitor the situation closely, with a view to raising the visibility of the issue and preventing the injuries caused by the death train.

16. Complaints of violations of the rights of persons with disabilities were rarely followed up and complainants were publicly rebuked. A culture of complaint should be fostered, in order to encourage persons with disabilities to file complaints and to inform them and their representative organizations of their rights.

17. **Mr. Canto Mejía** (Guatemala) said that the criminalization of discrimination in 2002 had improved the situation of indigenous persons with disabilities. The law punished discrimination by commission or omission with fines and prison terms. Discrimination was prohibited on the grounds of gender, race, ethnicity, civil status or any other grounds and offences committed on ethnic or cultural grounds were considered crimes with aggravating circumstances. The law strengthened mutual respect in the country and promoted a complaints culture. Information should be disseminated in different languages, in order to inform people of their rights and encourage them to exercise those rights.

18. The National Registry of Persons, established 10 years previously to update the registration system and introduce electronic registration, had launched initiatives that included sending delegations to remote and rural areas to identify and record unregistered persons. Three years previously, it had placed representatives in hospitals to ensure that all children were registered at birth and had established a system for the registration of home births attended by midwives.

19. **Mr. Ramírez Reyes** (National Council for Persons with Disabilities, Guatemala) said, with regard to the accessibility of transport on arrival in his country, that less than 1 per cent of public transport was accessible. The National Council for Persons with Disabilities had called for disability experts to be included in urban development councils and for accessibility to be taken into account for new projects. There was little evidence that the capital's mayor was interested in improving the situation for persons with disabilities. Nonetheless, some parks had been made accessible to child wheelchair users and certain major avenues had been provided with ramps. His organization had called on the municipal authorities to permit the introduction of ramps elsewhere, in particular in the historical centre of the city. The new Government had, however, shown a willingness to address the issues faced by persons with disabilities, notably at the Social Development Cabinet and monthly meetings of senior management, which were attended by the heads of ministries.

20. Torture was punishable by imprisonment and was defined in the law as acts by public officials or persons undertaking public duty that were intended to inflict pain or serious physical or mental suffering for the purposes of obtaining information or a confession, or as punishment. The law also covered instigation of torture, acquiescence in torture and the use of torture by criminal organizations or for criminal purposes. Reforms would add psychological torture and the direct torture of a person with disabilities to the definition of torture.

21. **Mr. Morán Herrera** (Guatemala) said that, despite significant progress in the field of legislation, much work remained to be done, particularly on the application of the law in practice. It had been painful to hear some of the Committee's comments. There was, however, significant political will to support persons with disabilities in Guatemala.

Articles 21-33

22. **Mr. Tatić** asked whether a strong statement from the Committee on accessibility in the capital would be useful to the National Council for Persons with Disabilities. He asked whether the State party intended to seek assistance under the framework of international cooperation to tackle accessibility. With reference to articles 21 and 24 of the Convention, he wished to know more about the situation in practice for blind students and whether they were provided with textbooks in accessible formats at all levels of education. Given high illiteracy rates and low levels of primary school education among persons with disabilities, he requested information, and relevant statistics, on measures to reverse that trend, in particular by providing access to school, with reasonable accommodation, for children with disabilities and by ensuring that persons with disabilities were covered by literacy

programmes. More information should be provided on the accessibility of tourist sites in Guatemala.

23. **Ms. Pavey** requested information on the application of article 32 of the Convention. The delegation should provide details of specific international cooperation projects, including details of funds, bilateral and multilateral support and the exchange of best practices.

24. **Ms. Degener** asked, with reference to article 23, whether the delegation could provide her with statistics on the number of women with disabilities who had been sterilized since the signing of the Convention, including data on how many of those women were under 18 at the time. More information should be provided on how national implementation and monitoring of the Convention, under article 30, would be achieved in the State party. In particular, she wished to know who would act as the focal point for implementation, which body would act as an independent monitoring mechanism and whether that body would comply with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

25. **Mr. Ruskus** said that he would like information about the accessibility of health care for persons with disabilities, including those living in poverty and those living in rural areas. In particular, he wondered whether persons with disabilities enjoyed access to safe and affordable prescription medicines and could consult health-care professionals in mainstream health services. He would also welcome information on concrete measures or incentives for ensuring reasonable accommodation in health-care facilities.

26. **Mr. Langvad** asked how many school-age children with disabilities were not enrolled in school, what specific initiatives had been undertaken to significantly increase the number of children with disabilities who were attending school every day and what measures were in place to ensure that teachers and other school personnel were trained to implement inclusive education. He would also like information about any plans for transferring children with disabilities from segregated schools to mainstream schools. In addition, he would like to know about any social protection measures, such as social pensions and programmes providing disability-related expenses, to ensure that persons with disabilities enjoyed financial independence and an adequate standard of living and were able to form and provide for their own families. Lastly, he would like to know what steps were being taken to repeal article 15 (b) of the Elections and Political Parties Act, which stated that persons whose civic rights had been suspended were not entitled to vote.

27. **Mr. Basharu** enquired what action had been taken under the Access to Information Act since the publication of the State party's initial report (CRPD/C/GTM/1) to provide information in accessible formats for persons with visual and hearing impairments. He also wondered when the Congress of the Republic intended to pass the act recognizing sign language as an official language of the deaf and whether Braille would also be recognized as a primary mode of communication and education for the blind. Additionally, he would like to know whether the *Mi Familia Progresa* (My Family Progresses) cash transfer programme continued to operate and was sustainable and what percentage of the programme funds were allocated to indigenous persons with disabilities. He would welcome information on any action taken to ensure that persons with disabilities could take part in the electoral process, including accessibility measures and the provision of information to blind and deaf persons in accessible formats at voting centres. He would also like to know about the level of inclusion of persons with disabilities in political parties. With regard to article 31, he wondered whether census data were collected on indigenous people with disabilities, especially those belonging to the Maya, Garífuna, Xinca and Ladino groups.

28. **Mr. Buntan** asked how the Government interpreted the concept of inclusive education and how it intended to implement that concept. He was particularly interested in how the State party provided education for blind, deaf and deaf-blind persons in an environment that maximized learning for them. He would also like to know what role the Government saw for special schools in supporting the implementation of inclusive education. With regard to article 32, he wondered whether the State party intended to incorporate disability perspectives in its efforts to achieve the Sustainable Development Goals and to utilize any support it received from the international community for those efforts to advance the implementation of the Convention.

29. **Ms. Kingston** enquired what support was available to the parents of children with disabilities to enable them to avoid having to place their children in institutions. She would especially like to know about support for parents in indigenous communities and in remote or rural areas. She would also like to know whether free and informed consent was always obtained in advance for the performance of abortions or the use of contraceptives, particularly in institutions where women with psychosocial disabilities were housed. In addition, she wished to know what measures were envisaged to empower and promote the economic inclusion of all, irrespective of disability status, in accordance with article 28 of the Convention and Sustainable Development Goal 10. Lastly, she would like information on the State party's plans for increasing the availability of high-quality, timely, reliable data disaggregated by income, sex, age, race, ethnicity, migratory status, disability status, geographical representation and other characteristics relevant in the Guatemalan context.

30. **Mr. Parra Dussan** said that he would like to know how many persons with disabilities were enrolled as students in public and private universities, whether scholarships were available to them for university studies and whether a certain number of places were reserved for students with disabilities in public universities. He was also curious as to whether there were quotas for the employment of persons with disabilities in the public sector.

31. **Ms. Peláez Narváez** said that she wished to make it clear that the Committee was in no way opposed to the rehabilitation programmes and activities offered by the telethon organization. The Committee's concern was that such televised fundraising campaigns might violate the rights of persons with disabilities and show a lack of respect for their dignity. It was also a source of concern that the telethon organization received fully half of the funds that the National Council for Persons with Disabilities made available to civil society organizations for projects to benefit persons with disabilities. It was not clear, however, whether the Council had transparent mechanisms for distributing those funds and for monitoring the projects that received funding, nor was it clear how many projects had been approved to date. The Committee was also concerned that the National Registry of Persons did not identify persons with disabilities or include institutionalized children, many of whom had disabilities. In that connection, it was disappointing that the delegation had failed to answer the Committee's questions regarding the institutionalization of children and the conditions in which they lived. Information from civil society indicated that the State party was not fulfilling its obligation under article 7 to ensure that children with disabilities could express their views on all matters affecting them.

32. She would like to know what measures the State party was taking to promote family fostering and adoption of abandoned and institutionalized children with disabilities. She would also like to know about any measures envisaged to enable children with disabilities in rural areas to attend school with their peers during the schoolday, rather than after regular hours, as was currently the practice. In addition, she would welcome information on how the State party ensured the participation of indigenous persons with disabilities in the design, implementation, monitoring and evaluation of policies relating to indigenous peoples. She also wondered whether it was taking steps to make information available in

accessible formats to members of the Maya, Garífuna and Xinca communities. For example, was information available in Braille in their languages? She remained concerned about the conditions at the Federico Mora National Mental Health Hospital and wondered when legislation providing for community-based mental health services might be enacted. She also wondered whether, in the light of the high number of cases of sexual abuse reportedly occurring in that institution and others, the State party had considered implementing institutional HIV/AIDS prevention programmes.

33. The State party was to be commended for making ballots available in Braille; however, those ballots did not protect the right of persons with disabilities to vote by secret ballot. Did the State party intend to rectify that situation? She would like to know when the State party intended to bring its copyright laws into conformity with the provisions of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (the Marrakesh Treaty). She also wondered whether books were available in accessible formats for blind persons in community, school and university libraries. In relation to article 32, she remained concerned that international cooperation resources were being used to perpetuate a segregation model, which was not at all in line with the Convention. As for article 33, she would like to know whether the State party intended to designate the National Council for Persons with Disabilities as the focal point for implementation of the Convention and, if so, what support it would offer to ensure that the Council could fulfil its functions. Similarly, she wondered whether the Office of the Human Rights Advocate was to be designated as the independent monitoring mechanism and how it was to be supported in carrying out its responsibilities independently. Lastly, she would like to know when the National Council for Persons with Disabilities would put in place a transparent mechanism for involving persons with disabilities in the monitoring process through their representative organizations.

34. **The Chair** asked whether the bill on the inclusion of persons with disabilities in employment had been enacted into law and whether the State party had established social protection floors, as recommended by the Committee on Economic, Social and Cultural Rights, in order to ensure broad social security coverage, including for persons with disabilities.

The meeting was suspended at noon and resumed at 12.20 p.m.

35. **Mr. Morán Herrera** (Guatemala) said that, under the cash-transfer programme implemented by the Ministry of Social Development, 682,484 women and 19,709 men had received payments annually between 2012 and 2015. In terms of breakdown by indigenous group, 382,254 Maya, 312,076 Ladino, 1,175 Xinca and 150 Garífuna had received transfers. Efforts were being made in cooperation with the Presidential Commission on Discrimination and Racism against Indigenous Peoples to increase the participation of the Garífuna community in the programme. The main objectives of the transfers, which were of the order of 300 quetzales per month, were to develop human capital and break the generational cycle of poverty. Beneficiaries received the transfers on condition that their children attended school and health check-ups. The Government attached great importance to ensuring the inclusion of the most vulnerable groups, including older persons and persons with disabilities, in its social programmes. The Ministry of Social Development had recently concluded an agreement with the National Council for Persons with Disabilities, under which a single registry of persons with disabilities would be developed to record the details of beneficiaries of social programmes with disabilities, thereby contributing to efforts to identify the number of persons with disabilities nationwide. The data from the first National Survey on Disabilities were also being updated. The Government did not have sufficient resources to conduct all that work itself and thus needed the support of the international community. The authorities had discussed with the UNICEF country team the importance of interventions for children with disabilities. The

Social Development Cabinet and the National Council for Persons with Disabilities planned to make a request for the establishment of liaison units in all government institutions to facilitate the mainstreaming of disability issues.

36. **Mr. Canto Mejía** (Guatemala), responding to questions on article 24, said that the research conducted on inclusive education in 2014 had focused on the access, acceptance and participation of persons with disabilities in the national education system. Guatemala had adapted its domestic legislation on the basis of such instruments as the Salamanca Statement and Framework for Action on Special Needs Education. The National Education Act guaranteed the right to education for all children without distinction. The Act on Special Education for Persons with Special Capacities provided for the establishment of special education centres, although a transition was now under way towards a system of inclusive education. Such centres were still in place for cases that required specialized attention, but the number of mainstream, inclusive schools was increasing. In some inclusive schools, regular teachers received support from itinerant pedagogical advisers, while in others there were specialized teachers trained to work with children with disabilities. In total, there were approximately 14,000 students with disabilities in the national education system who received specific support: more than 1,900 children with disabilities were in special education centres, approximately 3,000 were in inclusive schools with pedagogical advisers and 8,500 were in inclusive schools with a specialized teacher. Children in special education centres were gradually being transferred to inclusive schools.

37. The Ministry of Education, in cooperation with the public University of San Carlos, had developed a programme for in-service teachers, under which they continued to work during the week and attended training at weekends on how to meet the needs of children with disabilities. To date, some 20,000 of the country's 160,000 teachers had received training, and efforts were being made to increase that number. The Ministry of Education was also developing institutional capacity and developing training programmes for curriculum designers. Efforts were being made to remedy the lack of classroom tools for teachers working with children with disabilities, as had been identified in the research project. The Ministry of Education provided kits with special materials in accessible formats for children with visual and hearing impairments, which were distributed to all inclusive schools. Since 2009, an educational scholarship programme for children with disabilities had been implemented and grown every year. Teachers were encouraged to help identify children in their communities who were not attending school. Population statistics were somewhat outdated, as the last census had been conducted in 2002. However, there were plans to conduct another in 2017, which would enable the collection of disaggregated statistics on persons with disabilities in different age groups.

38. **Mr. Morán Herrera** (Guatemala), responding to the questions on the Sustainable Development Goals, said that the State party's K'atun: Nuestra Guatemala National Development Plan covered the period up to 2032. One of the priority objectives set by the Government for the next four years was to reduce chronic malnutrition, which was intrinsically linked to disability, by 10 per cent. A range of measures was being implemented to achieve that ambitious target, for example in the area of water and sanitation and conditional cash transfers.

39. **Mr. Ramírez Reyes** (National Council for Persons with Disabilities, Guatemala) said that the 2014 legislative initiative on the inclusion of persons with disabilities in employment had unfortunately been unsuccessful and had required significant changes. The National Council for Persons with Disabilities planned to put forward a new bill on employment inclusion, taking account of the recommendation made by the Chair at the recent Iberoamérica Incluye forum to initially establish a quota system stipulating that 2 per cent of employees must be persons with disabilities, as well as ensuring gender equality.

The proposed bill also provided that persons with disabilities could take early retirement between three and five years before the standard retirement age. With regard to the Federico Mora National Mental Health Hospital, the Ministry of Public Health and Social Welfare had a dedicated mental health department, which had developed a plan covering the whole country. There was also a specific programme on HIV/AIDS, for which Guatemala was receiving international support. There were more than 20,000 midwives registered with the Ministry of Public Health and Social Welfare, working primarily in rural areas and trained to identify congenital abnormalities.

40. **Mr. Cruz Cruz** (National Council for Persons with Disabilities, Guatemala) said that there were technical guidelines on the adoption of children who were difficult to place, including children with disabilities. As at June 2015, the National Adoption Council had 393 children awaiting adoption, of whom 75 per cent were difficult to place, as the majority of prospective adoptive parents wished to adopt children who did not have any special medical needs or disabilities, were under the age of 7 years and did not have any siblings. The National Reproductive Health Programme covered responsible parenthood and pregnancy, including for persons with disabilities. The National Council for Persons with Disabilities provided 500,000 quetzales in funding annually to its member organizations; there were established procedures and criteria for the evaluation of funding proposals. Organizations that wished to apply for funding had to be registered with the Office of the Comptroller-General of Accounts.

41. **Mr. Toledo Sebastián** (National Council for Persons with Disabilities, Guatemala) said that a meeting to follow up the implementation of the Marrakesh Treaty was planned for September 2016. The National Council for Persons with Disabilities had set up a committee, composed primarily of persons with visual impairments, to monitor implementation. It was hoped that significant progress would be made, as the proportion of publications available in accessible format was currently extremely small. Discussions were under way on proposed reforms to the Electoral and Political Parties Act, such as enhancing the accessibility of polling stations, introducing a quota for the number of candidates with disabilities for elections to public office, ensuring the availability of electoral information in accessible formats and including sign language in the electoral process. There were no up-to-date data on access to services for persons with disabilities, but, according to statistics from 2000, 80 per cent of services were provided by private companies and institutions and 20 per cent by the State. Although some progress had been made in that area, those figures had probably not changed significantly. The results of the second National Survey on Disabilities would be available in December 2016. The Government was aware of the need to update the basic guide for the classification of disability and to build the capacity of the country's organizations of persons with disabilities.

42. **Mr. Morán Herrera** (Guatemala) said that there was a strong political will in the country to deal with disability issues with the seriousness that they deserved and to prioritize them in government policy. The fact that Guatemala was a country with 22 languages and 24 ethnic groups sometimes posed additional challenges. However, with the support of the Committee and the international community, Guatemala was confident that it would make progress.

43. **Ms. Peláez Narváez** thanked the delegation for its frank and open answers to the questions raised by the Committee and also welcomed the important contribution made by Guatemalan organizations of persons with disabilities. She trusted that the Committee's concluding observations would serve to strengthen the protection of the rights of persons with disabilities in Guatemala.

The meeting rose at 1 p.m.

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Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities
Sixteenth session

Summary record of the 281st meeting
Held at the Palais Wilson, Geneva, on Tuesday, 23 August 2016, at 3 p.m.

Chair: Ms. Cisternas Reyes

Contents

Consideration of reports submitted by parties to the Convention under article 35 (*continued*)

Initial report of Colombia

This record is subject to correction.

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by parties to the Convention under article 35 (*continued*)

Initial report of Colombia (CRPD/C/COL/1; CRPD/C/COL/Q/1 and Add.1)

1. *At the invitation of the Chair, the delegation of Colombia took places at the Committee table.*

2. **Mr. Salazar** (Colombia), introducing his country's initial report (CRPD/C/COL/1), said that the dialogue with the Committee was taking place at a historic time for Colombia, as it had never been closer to negotiating the end of an armed conflict that had lasted for over 50 years. However, the peace that was so desired would not be possible without the full inclusion of persons with disabilities.

3. Since the adoption of the Constitution of 1991, Colombia had been building a social, democratic and participatory State, based on the rule of law, in which persons with disabilities benefited from special constitutional protection. Two key pieces of legislation had been enacted: a framework law on disabilities of 2007, which had been revised in 2013 to harmonize it with the Convention; and an anti-discrimination law of 2015, which criminalized discrimination against persons with disabilities.

4. Although many other laws addressed disability issues, those two legislative landmarks had shaped the model for the protection and promotion of human rights in Colombia. While it was true that some gaps remained in the legislation and that some laws could be improved, the challenge of including persons with disabilities would be met primarily by implementing existing laws, not by creating new ones.

5. A key role in that regard was played by the National Disability System, which brought together representatives of civil society and senior officials from all the ministries and administrative departments. Equivalent structures had been set up in the provinces and municipalities. The goal of disability inclusion was pursued at four different levels: in Congress, by promoting relevant legislation; in the regions, by providing technical assistance; within the State apparatus itself, by monitoring the implementation of the Convention; and in relation to other stakeholders, through dialogue with, for example, trade unions and the media.

6. Other challenges that the State party faced in implementing the Convention pertained to the issues of legal capacity, care and independent living, accessibility and universal design, inclusive education from early childhood, and occupational and productive inclusion. Intersectoral working groups consisting of representatives of civil society, academic institutions and relevant State bodies had been made responsible for each area. Each of the working groups had a technical secretariat that included members of civil society, enabling persons with disabilities themselves to be the protagonists of change. The groups set the agenda, reviewed local and international good practices, and considered how best to apply them.

7. Although Colombia had focused initially on strengthening structures and tools for the Convention's application, it realized that systemic change was also needed. The National Public Policy for Disability and Social Inclusion was being implemented to that end. In that context, segregated education had been eliminated; free, universal access to health care had been established; the provision of social welfare had been extended; and various initiatives had been taken to promote employment and entrepreneurship. Furthermore, an ambitious policy to enhance digital inclusion not only gave persons with disabilities access to technology but also empowered them and enabled them to exercise other rights.

8. A plan existed to provide differentiated care, in the form of comprehensive support and reparation, to persons with disabilities who were victims of the armed conflict. Professionals working in the legal, education and health sectors had been given training in the rights enshrined in the Convention. Organizations of persons with disabilities had been strengthened and persons with disabilities had been encouraged to take part in sporting and cultural events, both of which had been made progressively more accessible.

9. Although the Government was proud of the progress it had made, it recognized that much remained to be done. For example, statistical data needed to be updated as the figures held on disability did not correspond to the global averages established by the World Health Organization. The conduct of the forthcoming national census and the promotion of a voluntary register of persons with disabilities should help to rectify that problem and to optimize priority-setting and budget allocation. His country's commitment to realizing the rights of persons with disabilities was evidenced by the Presidential Plan on Inclusion, for which he was the Director. It was hoped, through the Plan, not only to further the implementation of the Convention but also to bring about the desired cultural change.

10. **Ms. Quan-Chang** (Country Rapporteur) said that significant progress had been made in protecting and enhancing the rights of persons with disabilities in the State party. The adoption of Act No. 1618 of 2013 on disabilities was welcome, although the lack of implementing regulations for the law was a cause for concern. The provision of remote systems for the interpretation of Colombian Sign Language also deserved to be highlighted but stood in contrast to the failure to recognize the right of deaf-blind persons to an interpreter-guide.

11. The Committee had received a great deal of information on the restrictions imposed on the exercise of legal capacity by persons with disabilities. For example, the Constitutional Court of Colombia had recently ruled that persons with psychosocial disabilities could not assume the responsibilities of motherhood or fatherhood and had compared them to minors. The same Court had ruled that tests should be carried out on a young woman with an intellectual disability to determine whether or not she had sufficient independence of mind to raise children. If it was decided that she did not, and if her legal representative or guardians gave their consent, then legal proceedings could be initiated with the aim of obtaining authorization for her fallopian tubes to be tied. Given that the Committee on the Elimination of Discrimination against Women had drawn attention to the issue of forced sterilization in its concluding observations on the combined seventh and eighth periodic reports of Colombia (CEDAW/C/COL/CO/7-8, para. 29 (e)) in 2013, it was troubling that the State party still showed no sign of being genuinely committed to eradicating the practice.

12. Little effort appeared to have been made to provide for inclusive education. According to figures from the Integrated Enrolment System, children with disabilities accounted for only 1.6 per cent of the total number of children enrolled in school. The More Families in Action programme gave financial support to children with a school attendance rate of at least 80 per cent. However, the families of children with disabilities, particularly intellectual disabilities, often lost their entitlement to that support as they were unable to enrol their children in school. Indigenous and Afro-descendent children in rural areas were particularly affected by the problem. The low numbers of blind and deaf children enrolled in mainstream education could be the result of a scarcity of Braille materials and a lack of sign language interpreters.

13. Persons with disabilities had been particularly affected by the decades-long armed conflict in Colombia. The suffering of victims was compounded by a lack of programmes and policies that took the issue of disability into account. It was unfortunate that, during the peace negotiations, a differential approach had not been taken in respect of persons with disabilities and also that no accurate statistics were available on victims of the armed

conflict who had disabilities. In addition, few psychosocial rehabilitation programmes had been set up, particularly in rural areas. The Committee had learned that, in order to be able to claim reparation, persons with disabilities must first be placed under judicial interdiction, whereby they were deprived of legal capacity, a condition that violated the Convention. Furthermore, the question of accessibility was not considered by the Land Restitution Unit when it examined claims made by persons with disabilities. During the armed conflict, 10 persons with disabilities had been victims of extrajudicial executions, in the so-called "false positives" scandal. She wished to know whether the State party would apologize for those atrocious crimes and make reparation to the victims' families.

14. Lastly, attention must be drawn to the severe exclusion faced by indigenous and Afro-descendent persons with disabilities and to the weak participation of civil society, in particular organizations of persons with disabilities, in the National Disability System. The complicated formalities and procedures indeed made it extremely difficult for organizations of persons with disabilities to be involved in decision-making of any kind at the municipal and departmental levels.

Articles 1-10

15. **Ms. Degener** said she was pleased to note that the State party had based its disability policy on the social model of disability. She wished to point out that, contrary to the assertion in the State party report, primary prevention of impairment did not constitute a measure of implementation of the Convention. The Convention served to uphold the rights of people living with disabilities; it did not concern itself with the prevention of road traffic or other accidents. The issue at stake was not simply how disability policy should be understood, but also how the resources available for implementing the Convention should be apportioned. When budgets were analysed, it was often found that a significant portion of those resources were allocated to the primary prevention of impairment.

16. She would welcome more information on the extent to which organizations of persons with disabilities participated in the implementation of the Convention and on the inclusion of women and girls with disabilities in gender-equality policy and disability policy. She would also appreciate the delegation's comments on reports that acts of sexual violence committed against women and girls with disabilities were ignored by the investigating authorities. She asked what steps were being taken to empower indigenous women and girls with disabilities and to address the fact that large numbers of children with disabilities were not enrolled in school. Lastly, she requested more statistical information on the situation of children with disabilities in Colombia.

17. **Mr. Tatić**, noting that discrimination on the ground of disability had been an offence in Colombia since 2015, asked whether any cases of such discrimination had come before the courts. He also wished to know how many civil complaints of disability-based discrimination had been received by national human rights institutions and under what circumstances it was considered illegal to deny reasonable accommodation to persons with disabilities. He asked what mechanisms were used to monitor the implementation of accessibility standards and whether any systematic or mandatory training in accessibility was provided to architects, engineers, urban planners and other professionals. Lastly, he asked what conditions of accessibility he, as a wheelchair user, would encounter if he travelled by air to the State party's capital city and attempted to use public transport, stay in a hotel or visit government offices, including those housed in old colonial buildings.

18. **Ms. Peláez Narváez** asked what efforts the State party was making to ensure that persons with disabilities, including women and older persons, through their representative organizations, were closely consulted on and actively involved in the development and implementation of legislation and policies to implement the Convention, and in other decision-making processes concerning issues relating to persons with disabilities; how the

State party's specific policies on female victims of armed conflict addressed the issue of women who had been left with a disability as a result of sexual violence deployed as a weapon of war; and what measures the State party had taken to stop institutionalizing children with disabilities, especially girls, who had been abused by their family members, thus depriving them of a family environment. She also wished to know what was being done to ensure that the telethon organized by the Fundación Teletón Colombia was respectful of persons with disabilities and that the funds raised were used appropriately. She thanked the State party for providing its replies to the list of issues (CRPD/C/COL/Q/1/Add.1) in Braille, which had greatly facilitated her work.

19. **Mr. Basharu** asked what measures the State party was taking to repeal the laws that allowed women with disabilities to be sterilized without their free and informed consent. He also wished to know what mechanisms were in place to promote consultation with women with disabilities and their representative organizations in all spheres of life. In addition, he would appreciate information on any steps that had been taken to ensure that all children with disabilities, including those who lacked the advantages evidently enjoyed by children living in urban areas and children of parents serving in the State party's military or police forces, were afforded equal opportunities. Information on any efforts to involve the country's media in awareness-raising campaigns would also be welcome.

20. **Mr. Buntan** said that he wondered what steps were taken by the State party, a middle-income country, to empower the representative organizations of persons with disabilities to participate effectively in formulating, implementing and monitoring policies and legislation related to the implementation of the Convention. He asked whether the State party's policies on procurement, including of information and communication technology, contributed to greater accessibility.

21. **Mr. Ruskus** said that he would welcome information on the efforts made by the State party to combat stereotypes, prejudice and stigma relating to persons with disabilities and promote awareness of their rights and dignity. What specific measures was the State party taking to promote awareness among journalists and persons working with disability issues of the potential and achievements of persons with disabilities?

22. **Ms. Kingston** said that she would appreciate the delegation's comments on claims that organizations of persons with disabilities had not been involved in the preparation of the reports submitted by the State party to the High-level Political Forum on Sustainable Development and that the legal provisions calling for the adoption of mechanisms to ensure the sustainability of such organizations had not been properly implemented. She wished to know whether Colombia had any laws that addressed the intersection of disability and other common causes of discrimination and whether, as the Committee on the Rights of the Child had recommended in its concluding observations on the combined fourth and fifth periodic reports of Colombia (CRC/C/COL/CO/4-5, para. 20), it had stepped up its efforts to eliminate discrimination against children in marginalized situations, especially children with disabilities living in rural areas. She also wished to know whether the State party intended to collect official statistics on female genital mutilation, in particular in indigenous communities.

23. **Ms. Quan-Chang** asked what steps the State party was taking to explicitly ban all forms of corporal punishment and amend the vague provision of the Civil Code that conferred on adults the right to correct children for whom they were responsible. She wondered what could be done to invalidate a 2014 ruling in which the Constitutional Court had held that the courts could order the sterilization of children with disabilities. She also wished to know how the State party intended to move away from outreach campaigns or fundraising drives that, with their excessive focus on the medical or social and economic needs of persons with disabilities, reinforced negative views of such persons. What

measures did the State party plan to take to promote greater awareness of their rights instead?

24. **The Chair** said that she would welcome an update on the progress made by the State party towards ratification of the Optional Protocol to the Convention. She wondered whether the State party's failure to take persons with disabilities into account in the current peace talks was conducive to the achievement of Sustainable Development Goal 16, which involved the pursuit of peaceful and inclusive societies and justice for all. The authorities should bear in mind that the efforts they made to ensure that social services and leisure activities were available to children with disabilities, in line with the recommendation of the Committee on the Rights of the Child (CRC/C/COL/CO/4-5, para. 38 (d)), would also help Colombia achieve Sustainable Development Goal 10, which focused on reducing inequality.

25. **Ms. Quan-Chang** said that, when she had visited Colombia in January 2015, she had been told that the Optional Protocol could not be ratified until it was determined that doing so would be constitutional. Eighteen months was ample time to come to such a determination.

The meeting was suspended at 4.10 p.m. and resumed at 4.45 p.m.

26. **Ms. Cubides** (Colombia) said the National Public Policy on Gender Equity stated clearly that a differentiated approach should be taken to issues of concern to women with disabilities. Technical assistance was provided to ensure that all the country's disability programmes incorporated a gender perspective. The Constitutional Court, which had ordered special protection measures for women displaced by the armed conflict and women with disabilities, had incorporated a gender perspective into a number of its decisions.

27. **Ms. Nieto Alzate** (Colombia) said that, in 2016, the Colombian Family Welfare Institute had developed guidelines on the actions to be taken to ensure that children could exercise their rights and on the services to be provided to child victims of abuse. Differentiated measures were taken for the benefit of children with disabilities, who were recognized as subjects of rights. The Institute favoured initiatives that involved providing economic and psychosocial support to the families of such children. The Institute's family support and strengthening units provided support to parents individually and worked closely with both families and communities, in urban as well as rural areas.

28. Colombia had 102 indigenous communities, each with its own culture. Indigenous children with disabilities were offered treatment that reflected their intersectional needs, a practice that had been reinforced by Constitutional Court Order No. 251 of 2008. All children who had been affected by the armed conflict were entitled to comprehensive victim support.

29. **Mr. Valencia** (Colombia) said that female genital mutilation was not widespread in Colombia. It was practised by a single ethnic group, the Emberá-Chamí, but had been imported from elsewhere. The first cases of female genital mutilation had been recorded some years previously, but, since they had been limited in number, comprehensive data on the practice had not been collected. The Government planned to eradicate female genital mutilation by educating women from the ethnic group in question on its dangers, working with local authorities, allocating the necessary financial and human resources within the framework of the National Development Plan 2014-2018, and implementing a strategy involving the Colombian Family Welfare Institute and the Presidential Advisory Office for Human Rights.

30. **Ms. Nieto Alzate** (Colombia) said that the development of the National Public Policy for Disability and Social Inclusion had involved a process of consultation with a wide range of stakeholders, including a large number of persons with disabilities and their

representative organizations. To give weight to issues of intersectionality, the persons with disabilities selected for consultation had included victims of the armed conflict, women, representatives of the four officially recognized ethnic groups and lesbian, gay, bisexual and transgender persons (LGBT) persons. Numerous other stakeholders, including family members of persons with disabilities, had also been consulted.

31. To allow persons with disabilities to participate fully in policy development, extensive measures had been taken to facilitate the accessibility of the process. Similar measures had been taken to facilitate the accessibility of the work of the National Disability Council. The Ministry of the Interior had begun a process of strengthening organizations of persons with disabilities. Furthermore, under an initiative launched the previous year, organizations of persons with disabilities would receive recognition for their work. Other ministries and government bodies also took measures to increase the participation of persons with disabilities, in particular women with disabilities, in decision-making processes. Women made up 52 per cent of nominees to the National Disability Council and 32 per cent of representatives at the regional level. Efforts would be made to sustain the high level of participation of women in political and public life. The Ministry of the Interior had conducted extensive consultations on the implementation of article 22 of Act No. 1618 of 2013. Consultations would continue to be held with children with disabilities.

32. **Ms. Cubides** (Colombia) said that Act No. 1752 of 2015 had criminalized discrimination and harassment against persons with disabilities. It could be invoked in cases in which a person with a disability had been denied reasonable accommodation. The Government was working to raise awareness of the Act among civil society organizations. Since 1991, the right to petition for *amparo* had allowed persons with disabilities to secure the exercise of their fundamental rights within a reasonable time frame. Supervisory bodies including the Ombudsman's Office and the Attorney General's Office could impose sanctions for denial of reasonable accommodation. A national system had been established to address discrimination in the education system. Accessibility standards had been set for the online dissemination of information by public bodies. The current compliance rate was 64 per cent, and disciplinary and fiscal sanctions were imposed for non-compliance.

33. The peace talks were ongoing, and it was expected that the relevant agreements would be signed imminently. Some 60 victims of the armed conflict, including a number of persons with disabilities, had participated in the broader peace process. The High Commissioner for Peace was working to make the peace talks accessible to persons with disabilities, including by providing sign language interpretation and making the agreements available in Braille, which would allow such persons to participate fully in the referendum scheduled for the following month. Representatives of organizations of persons with disabilities had participated in round-table discussions held throughout the country.

34. **Ms. Nieto Alzate** (Colombia) said that, in recent years, the National System of Comprehensive Victim Support and Reparation had been cooperating with the National Disability System. Government officials, representatives of organizations of persons with disabilities and victims of the armed conflict had been involved in that process. The cooperation between the two structures had ensured that special attention was devoted to issues of intersectionality. Important advances had been made, as was demonstrated by Constitutional Court Order No. 006 of 2009 and Order No. 173 of 2014. While some victims of the conflict had been persons who already had disabilities, others had acquired disabilities during the conflict or subsequently.

35. **Mr. Salazar** (Colombia) said that, with regard to the portrayal of persons with disabilities in the media, it should be borne in mind that the full implementation of the Convention would involve a process of complete cultural transformation. Some outdated cultural practices had proved particularly resilient. One example was White Day, which had once been promoted as the day of persons with disabilities in Colombia. It had long been

associated with paternalistic, essentialist and condescending attitudes towards persons with disabilities. Although the Government did not promote the tradition, it was maintained in some areas of the country. The Government had sought to encourage alternative initiatives by promoting more positive attitudes towards persons with disabilities. The telethon had returned in 2011 after an absence of several years. Its aim was to raise money for persons with disabilities. The National Disability Council had contacted the organizers to ask them to bring the format of the telethon more into line with the spirit of the Convention. The Government did not endorse or finance the telethon, but many civil servants promoted it on social networks.

36. In the longer term, the transformation of cultural attitudes towards persons with disabilities would require a more creative approach. One recent example of such an approach had been the promotion of sporting competitions involving athletes with disabilities, which had allowed the Government to send a strong message of empowerment. The Government recognized that primary prevention of impairment was not a means of implementation of the Convention and aimed to prioritize the promotion of the rights of persons with disabilities instead.

37. **Ms. Cubides** (Colombia) said that efforts had been made both to make television programmes accessible to deaf persons and to involve deaf persons in the production of television programmes. Two television programmes produced by deaf persons had already been broadcast.

38. **Mr. Salazar** (Colombia) said that the Convention had been ratified in 2011. Once further progress had been made towards its full implementation, the Government would be in a position to consider the ratification of the Optional Protocol. Colombia welcomed visitors with disabilities, and, in terms of accessibility features for wheelchair users, its airports were broadly comparable with major international airports around the world. With regard to public transport, hotels and historic buildings, the situation was more varied. In Bogota, for example, bus stations were fully accessible, but some of the buses were not. There were plans to improve the provision of accessible transport in major cities. Some buildings, including approximately 50 per cent of hotels, were not accessible, but government buildings usually were. There were laws requiring the principles of accessibility and universal design to be applied in all new building projects. However, the lack of binding technical norms meant that the accessibility features installed in new buildings did not always conform to international standards. Legislative amendments had been proposed to address the situation.

39. Although the Constitutional Court was a progressive institution, the sterilization of women with disabilities was permitted under current legislation, which was a source of great concern for the National Disability Council and civil society. The forced sterilization of women with disabilities was being examined by a special working group as part of a larger project to evaluate compliance with article 12 of the Convention. The participants in the working group included representatives of a number of supervisory bodies and of civil society. The working group had set itself the ambitious task of addressing all the issues covered by article 12, including forced sterilization and institutionalization, in a draft law. It was hoped that, as a result of its work, women with disabilities would never again be forcibly sterilized.

40. **Ms. Cubides** (Colombia) said that the crime of torture was codified in the Colombian Criminal Code, under article 178 of Act 599. The relevant provisions were in line with the international instruments on torture. The cases in which an individual could be charged with the crime of torture, with or without State involvement, were also specified in the legislation. There was no specific monitoring mechanism for torture. However, different inter-institutional State commissions, such as those working to prevent trafficking, sexual violence or armed conflict, were able to address the issue.

41. **Ms. Nieto Alzate** (Colombia) said that training on accessibility had been provided to architects and engineers. It was planned to include accessibility as a component in the curricula for a range of other university programmes. In collaboration with civil society, training on accessibility had been provided by the Ministry of Justice and Law to the staff of government institutions and to judicial professionals, including notaries, court staff and judges. The Colombian Network of Universities for Disability played an important role in the inclusion of persons with disabilities, including by facilitating consultations with them. In the health-care sector, around 2,000 seminars took place each year on the promotion of the rights of persons with disabilities, focusing on the humanization of health-care provision and the integration of a human rights perspective into the work of health-care facilities. The overarching goal of the programmes just described, and of similar initiatives, was to foster recognition of human diversity and the enjoyment of rights by all, in particular by those who experienced the most discrimination, including persons with disabilities.

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42. **Mr. Ruskus** said the Committee was concerned that children with disabilities were being separated from their families through the application of protective measures ordered by the Colombian Family Welfare Institute. Information had been received indicating that, in 2012 alone, around 12,000 children and young persons with intellectual or psychosocial disabilities had been institutionalized or placed in segregated programmes. Many children were taken out of school for that purpose, thus denying them the right to inclusive education. Around 100,000 million Colombian pesos had been spent on protective measures and institutionalization. Parents were often not able to visit their children, as the locations of the facilities were frequently remote. Exceedingly bureaucratic procedures also delayed family reunification when children were deinstitutionalized. There were many recorded cases of ill-treatment, including denial of food or force-feeding, punishment for wetting the bed and denial of life-saving medicine. In addition, once a child in such a facility attained the age of 18 years, there was an automatic presumption of legal incapacity, meaning that the facility retained custody of the individual. The Committee was keen to learn if the Government had plans to change those practices, which were contrary to the Convention, and to redirect funds to enable parents of children with disabilities to fully exercise their parenting rights.

43. **Mr. Tatić** said that the Government should consult the Committee's general comment No. 2 (2014) on accessibility, which contained advice on improving practice in that area. The Committee welcomed the end of the long conflict in the State party and wished to know more about what was being done to ensure that requirements with regard to accessibility and disability inclusion were taken into account in the post-conflict reconstruction process. The Committee would appreciate further information regarding training provided to members of the armed forces on how to interact with persons with disabilities, particularly deaf persons and persons with psychosocial or intellectual disabilities. It would also like to know whether the ruling of the Constitutional Court on ensuring access for persons with disabilities to the Paloquemao judicial complex was now being implemented. Lastly, the Committee wondered whether it was common practice for those persons with disabilities who required a high level of support to be assisted exclusively by their family members or whether trained professionals were available to assist them. Were there any allowances to pay for such assistance?

44. **Ms. Degener** asked what progress there had been in developing a system conducive to the exercise of legal capacity and supported decision-making by persons with disabilities. She also wished to know what kind of changes would be made to the law and how supported decision-making would be implemented in practice. She would appreciate further information on how judges could interpret Act No. 1618 of 2013 so as to allow persons

with disabilities to serve as witnesses. Did that happen already and, if not, were there any plans to amend procedural laws?

45. She asked what the Government planned to do about the 2,015 persons with disabilities who, according to the State party report, were incarcerated; on what grounds they had been deprived of their liberty; and whether they had had the opportunity to defend themselves in court. Lastly, she would welcome more information on the situation of persons with disabilities detained in public and private psychiatric institutions and the steps taken to ensure that their rights were guaranteed in line with the Convention.

46. **Mr. Basharu** said that he would like the delegation to revert to his previous question on children with disabilities, as the response provided had not been satisfactory. He wished to know whether the State party had a strategy in place to respond to situations of risk and emergency affecting persons with disabilities and, if so, whether provision was made to communicate appropriately with them in such circumstances using, for example, Braille or sign language. In addition to ensuring that prisons, police stations and other State infrastructure were physically accessible to persons with disabilities, had the Government taken measures to provide information in accessible formats to all persons with disabilities seeking justice?

47. **Mr. Buntan** said that he wished to reiterate his earlier question on the Government's use of its general public procurement policy to enhance accessibility. The delegation had mentioned that there were laws on universal design and accessibility, but that the framework for the implementation of those laws was lacking. He would therefore urge the Government to develop norms or guidelines, especially in relation to the accessibility of information and communication technology, that were in line with internationally recognized accessibility standards. The State party was to be congratulated for resolving the armed conflict through negotiation. He wondered whether there were plans to involve persons with disabilities in the implementation of the peace settlement. Many persons with disabilities had been badly affected by displacement and land relocation during the conflict, and their involvement would help ensure a sustainable peace. Lastly, regarding the exercise of legal capacity, he wished to know whether there had been any cases of persons with disabilities being prevented from conducting financial transactions, such as depositing money in a bank account or purchasing properties.

48. Ms. **Peláez Narváez** said that she would like the delegation to revert to her earlier question on the institutionalization of children with disabilities who had been sexually abused. In particular, she wished to know what steps would be taken to ensure that the right of those children to live with their families was upheld. She would like to receive further information on gender-equality policies that focused specifically on women and girls with disabilities, given their extreme vulnerability, and on the involvement of women with disabilities in decision-making processes and in consultation and participation mechanisms. Clarification would be appreciated as to how the National System of Comprehensive Victim Support and Reparation and similar schemes provided for the specific needs of women and girls with disabilities. She wished to know whether the shelters for victims of violence in the State party were accessible for women with disabilities and what services they provided. Lastly, she asked how many persons with disabilities, both adults and children, had been institutionalized, whether the Government had plans to implement a deinstitutionalization policy and whether there was an oversight mechanism in place to ensure that people living in such facilities could enjoy their full rights.

49. **Ms. Kingston** asked how many internally displaced persons with disabilities there were in the State party and what mechanisms were in place to ensure that their rights were respected. She would also like to know whether prisoners and other detained persons with psychosocial or intellectual disabilities were able to access the support they required on a regular basis.

50. **Ms. Quan-Chang** said the Committee had received information from reliable sources indicating that the telethon was indeed supported by the State, which, for example granted the organizers a significant amount of airtime on public television. In addition, publicity and promotional resources for the event were provided by public bodies, and employees of those bodies were strongly encouraged to donate money, sometimes large amounts. The telethon was also exempt from paying taxes. Could the delegation clarify the matter?

51. In Medellín, the mayoral office had passed a decree prohibiting people from living on the street. Such persons could be arbitrarily declared to be persons with disabilities and, as such, could be deprived of their legal capacity. The implementation of the decree would further increase the insecurity faced by persons living on the street as well as violating their rights. The Committee understood, moreover, that deprivation of legal capacity was often a requirement for the provision of support and allowances to persons with disabilities, which was a clear violation of article 12.

52. According to reports received by the Committee, prison facilities were not always accessible for persons with disabilities and there was a lack of suitable activities for inmates with disabilities. In addition, there was no mechanism to oversee institutionalization or deprivation of liberty on the ground of disability or to safeguard the rights of individuals who found themselves thus confined, which was a concern for the Committee. Lastly, she asked what measures were being taken or were planned to criminalize forced sterilization in the State party.

53. **The Chair** said that she wished to know what steps the State party was taking to ratify the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled. She would be grateful for more specific information on the procedural accommodations in place to guarantee that persons with disabilities had access to justice; the due process guarantees for persons with disabilities who were charged with committing a crime; and the safeguards that were applied when a person had been declared unfit to stand trial.

The meeting rose at 6.05 p.m.

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Committee on the Rights of Persons with Disabilities
Sixteenth session

Summary record of the 282nd meeting
Held at the Palais Wilson, Geneva, on Wednesday, 24 August 2016, at 10 a.m.

Chair: Ms. Cisternas Reyes

Contents

Consideration of reports submitted by parties to the Convention under article 35 (*continued*)

Initial report of Colombia (continued)

This record is subject to correction.

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by parties to the Convention under article 35 (*continued*)

Initial report of Colombia (continued) (CRPD/C/COL/1; CRPD/C/COL/Q/1 and Add.1)

1. *At the invitation of the Chair, the delegation of Colombia took places at the Committee table.*

2. **The Chair**, on behalf of the Committee, congratulated Colombia on the conclusion of the historic peace accord announced that day.

3. **Mr. Salazar** (Colombia) said that the work that lay ahead following the signature of the peace agreements would take many decades, as the legacy of 50 years of conflict could not be eliminated overnight. It was important to ensure that persons with disabilities played a prominent role as the country began its post-conflict transition and reconstruction. Discussions had already begun with the Post-Conflict Minister to develop specific plans for the participation of persons with disabilities in efforts to rebuild the country.

Articles 11-20

4. **Ms. Cubides** (Colombia), responding to questions put at the previous meeting, said that, although there had not been a specific representative of persons with disabilities in the peace negotiations, some of the participants had had disabilities, including one of the representatives of the victims and one of the representatives of the Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Armed Forces of Colombia) (FARC), who was blind; they had received the necessary support at the negotiating table. As Colombia began its post-conflict transition, it was important to take account of the needs not only of victims of the conflict, but also of persons with disabilities from all sides, including guerrillas and paramilitaries. The Mesa de Conversaciones website, which since 2012 had provided information on developments in the peace process and allowed individuals and organizations to submit proposals and comments on the negotiations, included information in sign language and other accessible formats.

5. **Mr. Salazar** (Colombia) said that the issue of the telethon organized in aid of persons with disabilities was a complex one that provoked anger among some civil society actors, and the Government understood their position. Although the Government did not officially support the telethon, which was broadcast on private television stations, some individual members of the Government had promoted it, on social media for example. The National Disability Council had written formally to the Fundación Teletón Colombia, questioning its procedures and the focus of its televised event, which were not in line with the rights-based approach to disability embodied in the Convention. It was true that, under the former mayor of Bogota, posters had been displayed in the city encouraging the public to donate to the telethon. Similarly, the Ombudsman's Office had invited all its staff to donate a day's salary. Such individual actions were redolent of an outmoded approach to disability and, while well intentioned, highlighted a lack of awareness of the Convention. Donations by individuals and companies to any non-profit organization, not only the Fundación Teletón Colombia, were tax deductible but should certainly not be considered a means of evading tax. There was no malice or dishonesty on the part of those who wished to donate to help persons with disabilities, but there was clearly a need for a cultural and attitudinal change. That would take time, however, and it should be recalled that Colombia had ratified the Convention only in 2011.

6. **Ms. Nieto Alzate** (Colombia) said that, when a child with a disability suffered abuse at the hands of a family member, the measures taken included the issuance of a warning,

along with a requirement for the family to attend a special course; immediate removal of the child and his or her placement in a specialized care programme; immediate placement in another family environment; placement in a temporary home for up to eight days or a foster home for up to six months; placement in an emergency centre in cases when placement in a temporary or foster home was not appropriate; and, as a last resort, adoption. The procedures followed were aimed at restoring the child's violated rights and were based on due process, a graduated approach and the best interests of the child.

7. With regard to the reintegration into the family of institutionalized children with disabilities, the Colombian Family Welfare Institute had a three-phase support model focused on the child's needs. The family too was provided with support and guidance to help prepare for the child's return. There were currently 353 children with disabilities in foster homes; 2,784 in homes run by NGOs; 195 receiving psychosocial support in their family environment; 3,365 in day-care centres part-time and 987 full-time; 2,870 children with intellectual disabilities and 2,092 with mental or psychosocial disabilities in residential care; and 2,954 children eligible for adoption, 35 per cent of whom were living in foster homes while awaiting adoption. Every effort was made to keep children in their families, and, to that end, the Institute also provided assistance to minors and their families through the *hogar gestor* system of psychosocial and financial support in a family setting. There were currently 7,278 children with disabilities enrolled in the programme. A further 1,100 children who were both victims of the armed conflict and had disabilities were also participating. Under Colombian legislation, judicial intervention on behalf of a child was permitted in the event of disagreement concerning the child's place of residence. Efforts were always made to ensure the participation of children in decisions that affected them.

8. **Ms. Cubides** (Colombia) said that women's issues were dealt with in a cross-cutting manner, taking account not just of gender and disability, but also ethnic and linguistic background, for example. The Office of the High Counsellor for Women also provided training to all local authorities on how to implement that approach.

9. **Mr. Salazar** (Colombia) said that, after more than a year's effort, the working group set up to examine the issues related to article 12 of the Convention had prepared a draft law, with the support of academics, members of civil society, representatives of the Ministry of Justice and Law, the Ombudsman's Office and the Colombian Family Welfare Institute, among others, although the text was not yet ready for submission to Congress. The process was taking some time because the aim was to develop a robust, comprehensive, lasting solution to issues related to legal capacity. In the meantime, there were unfortunately still vestiges of the previous model of disability that needed to be tackled. For example, persons with disabilities had to be placed under judicial interdiction in order to be eligible for a pension, and some private special schools required students with disabilities to be under guardianship in order to be enrolled. There was no formal deinstitutionalization policy, but that was one of the objectives of the working group. Access to justice for deaf and blind persons was taken into account in the draft law, but procedural accommodations were currently insufficient. The Constitutional Court had regrettably sent the wrong message in its ruling on the sterilization of persons with disabilities. It was hoped that forced sterilization would be made a crime in the final text of the draft law.

10. With regard to the situation of persons living on the street in Medellín, the Government rejected any insinuation that social cleansing was being practised. Although the municipal authorities had issued a decree on street persons with mental disabilities, that text had never been implemented in practice. The Ministry of Health and Social Protection and human rights bodies were reviewing the matter to ensure that such measures were not applied in Medellín or elsewhere.

11. **Ms. Nieto Alzate** (Colombia) said that, although major challenges remained, efforts were being made to strengthen access to justice for persons with disabilities. The Victims

Care and Comprehensive Reparation Unit was promoting recognition of the legal capacity of persons with disabilities, for example through the provision of training to all public servants working in the Unit and in relevant local authorities. The goal was to secure adjustments to internal procedures and remove the requirement for persons with disabilities to waive their legal capacity in order to be able to access compensation. With the support of civil society organizations and international cooperation, a protocol for supported decision-making by victims with psychosocial or intellectual disabilities was currently being finalized.

12. **Ms. Cubides** (Colombia) said that accessibility was a requirement in tender processes for new constructions. Indeed, the inclusion of persons with disabilities could be a deciding factor in choosing among otherwise equal bids. Decree No. 103 of 2015 established technical standards for the construction of new public buildings, and contracts could be withdrawn in the case of non-compliance. Accessibility was an important consideration in the ongoing process of constructing 30,000 new classrooms nationwide.

13. **Mr. Salazar** (Colombia) said that, while some persons with disabilities could afford to pay for personal assistance, most remained dependent on their families. The Government was not proud of that situation and was striving to change it. A working group, which included representatives of various ministries and of civil society, had been formed to establish a regulatory framework to support independent living for persons with disabilities, in line with the Convention. The group had realized early on that it would be necessary to put in place a comprehensive social protection system to ensure that persons with disabilities received all the support they needed, in keeping with their socioeconomic situation and their particular needs. The mayor's office in Bogota had carried out some interesting pilot experiences in independent living for persons with disabilities, which the Government hoped to replicate elsewhere. The Government of Japan had provided relevant technical assistance and training, and his Government was looking at how the Japanese independent living model might be adapted to the Colombian context.

14. **Ms. Cubides** (Colombia) said that a major transformation was taking place in the military and police forces as part of the post-conflict peace process, with a shift towards a rights-based approach. Disability-related issues were covered in training for members of the armed forces and the police at all levels, and internal protocols were being developed. The institutions responsible for upholding the rights of persons with disabilities were working with military and police training offices to emphasize the need for respectful treatment and due process guarantees for such persons and to raise awareness of their accessibility needs, including the need for sign language interpreters in the case of deaf persons.

15. **Mr. Salazar** (Colombia) said that there were currently about 2,500 persons with disabilities in Colombian prisons. They were in prison because they had been convicted of crimes; their incarceration had nothing to do with their disabilities. Some prisons did have psychiatric wards that provided care and medicines for prisoners with psychosocial disabilities. Nevertheless, conditions in Colombian prisons were deplorable for both prisoners with disabilities and those without disabilities. Most prisons suffered from serious overcrowding and numerous other problems. He personally had visited the disability ward of La Modelo prison in Bogota and had been deeply distressed to see persons with disabilities living in such terrible conditions. The Government was well aware that much remained to be done to ensure that all prisoners were treated with dignity.

16. **Ms. Nieto Alzate** (Colombia), responding to questions about measures to ensure that accessibility requirements were being met in the post-conflict reconstruction process, said that, while the conflict had taken a heavy toll on the population, it had not caused great infrastructure damage. Dealing with infrastructure-related issues was therefore not the top priority in the post-conflict period. A far more serious problem was internal displacement.

As at 31 July 2016, the number of displaced persons had totalled 6,974,537. Of that number, 189,388 (4 per cent) were persons with disabilities.

17. The Government had taken steps to ensure physical accessibility and implement reasonable accommodation measures so that individuals with disabilities could access information and services at assistance and guidance units for displaced persons. A comprehensive reparation plan for victims of the conflict had been drawn up and provision had been made within the plan for addressing the particular needs of victims with disabilities on a priority basis, including through financial compensation, rehabilitation services and assistance with emotional recovery. A differential approach was applied, with a special focus on the needs of women, children, older persons and lesbian, gay, bisexual, transgender and intersex persons with disabilities. In the initial assistance phase of the reconstruction process, 68,505 families of victims with disabilities had been helped; 43.2 per cent of the victims with disabilities had been women and 14.5 per cent children. In the reparation phase, 19,725 families had been assisted; 60 per cent of the victims had been men and 40 per cent women.

18. **Mr. Salazar** (Colombia), turning to the topic of protection of persons with disabilities in emergency situations, said that the Government was studying the possibility of endorsing the Charter on Inclusion of Persons with Disabilities in Humanitarian Action and would most likely do so in the near future.

19. **Ms. Cubides** (Colombia) added that Colombia had a national risk management strategy that recognized that a differential approach was required. The Government had identified the need for specific protocols for the management of natural disaster and emergency situations involving persons with disabilities. A 10-year emergency management plan provided for the development of such protocols. The Government had already drawn up protocols for dealing with other emergency situations, such as the forced displacement of persons as a result of armed conflict.

20. **Mr. Valencia** (Colombia) said that, before initiating the legislative process leading to the ratification of any treaty or optional protocol, the Government undertook a careful study of its ability to comply with the instrument, not only from a legal perspective, but also from the standpoint of the resources and expertise required to fulfil the country's obligations. Colombia was not yet in a position to ratify the Optional Protocol to the Convention, but it was ready to ratify the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled. Draft legislation for that purpose had already been prepared and would be submitted to Congress in due course. Congress was currently focusing on putting in place the legal and regulatory framework for the peace agreement and the post-conflict period, and the Government considered it prudent to delay the submission of the draft legislation until it could be dealt with more expeditiously. Nevertheless, the ratification process generally took about two years. Some measures in line with the spirit of the Marrakesh Treaty had already been put in place. For example, Act No. 1680 of 2013 had established copyright exceptions and limitations aimed at ensuring the autonomy and independence of blind persons.

Articles 21-33

21. **Ms. Peláez Narváez** said that she would first put a number of follow-up questions under articles 11 to 20. Noting that incest was an offence punishable by up to 4 years' imprisonment, she asked what was being done to ensure that the relevant provisions of the Criminal Code were enforced in cases of incest involving persons with disabilities. The Committee had received information indicating that suicide rates had risen sharply among indigenous youths as a result of the armed conflict and that some of those youths had psychosocial disabilities; she would like to know what steps were being taken to address

that situation. Other information received by the Committee indicated that an alternative sign language had come into use in recent years, which was a serious concern for the deaf community. She wondered how the State party intended to respond to that concern. She would also like to know when sign language would be recognized as an official language in Colombia and whether there were plans also to officially recognize Braille and to harmonize Braille signage.

22. **Mr. Tatić** asked whether it was possible under the law for any school in Colombia to refuse to enrol a student with a disability and whether, even if it was illegal, there were any known cases of a school rejecting a student on the basis of disability. He would like information on the amount invested by the State party in reasonable accommodation to enable students with disabilities to attend mainstream schools. He would also be interested in hearing what progress had been made with regard to accessibility for tourists with disabilities. Lastly, as a great admirer of the celebrated Colombian author Gabriel García Márquez, he would like to know whether his books were available in accessible formats.

23. **Mr. Basharu** asked to what extent the State party was promoting access to information for persons with disabilities in the mass media. In particular, he wished to know whether content was available in Braille and audio, whether there was sign language interpretation and easy-to-read captioning on television, and how many hours of news and information were available to blind and deaf persons via electronic media. He would also like to know the status of Braille in Colombia and whether it was effectively promoted and taught as the primary mode of education and communication for blind persons. The State party was to be commended for enacting legislation that guaranteed employment stability for persons with disabilities; he wondered, however, whether there were also measures to encourage employers to provide reasonable accommodation and to ensure equal pay for work of equal value for persons with disabilities.

24. He would appreciate information on any measures in place to encourage effective participation in political and public life by persons with disabilities, especially those with psychosocial or intellectual disabilities. For example, was information provided in Braille and audio formats and in sign language to enable blind and deaf persons to participate in the electoral process? Had steps been taken to facilitate access to polling places for wheelchair users and other persons with disabilities? What opportunities were open to persons with disabilities to stand for election or receive political appointments, and how many members of Congress and high-level political appointees were persons with disabilities?

25. **Mr. Ruskus** said he understood that private schools in Colombia applied very selective admission criteria, such as the results of tests of cognitive ability. He would like to know whether the State party intended to take any steps to do away with that selective approach and ensure inclusive education in all schools. He would also like to know what was being done to address the serious accessibility problems in institutions of higher learning and to implement reasonable accommodation measures to enable students with disabilities to pursue a university education.

26. **Mr. Buntan** asked how the Government interpreted the concept of inclusive education and how it intended to implement that concept. He would also like to know how the Government planned to use existing special education schools to support inclusive education. Data from the State party's 2005 census indicated that persons with disabilities comprised only 6 per cent of the Colombian population, whereas information from the World Health Organization suggested that the figure was actually closer to 15 per cent. He wondered how, in the context of its efforts to achieve Sustainable Development Goal 17, the State party intended to improve the collection of reliable, disaggregated data. He would also like to know how it planned to take advantage of international cooperation to achieve

inclusive development and further the implementation of both the Convention and the 2030 Agenda for Sustainable Development.

27. **Ms. Degener** asked what steps the State party planned to take in order to render its education system fully inclusive. For example, would laws be enacted to give students with disabilities substantive rights? Would segregated education based on impairment be legally defined as discrimination and would all schools be barred from rejecting students on the basis of disability? How would the linguistic requirements of deaf, blind and deaf-blind learners be met? What was the time frame for implementing such inclusive education measures?

28. She understood from the State party report (CRPD/C/COL/1) that the National Disability System would serve as the coordinating mechanism under article 33. She wondered whether that entity was a State agency. She would also appreciate clarification as to how the various entities mentioned in paragraph 261 of the report would function as the monitoring mechanism and whether they complied with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles).

29. **Ms. Kingston** said that she would like to know how the State party planned to extend inclusive education to children with disabilities in rural and remote areas and in indigenous communities, and how it intended to link those efforts with Sustainable Development Goal 4. She would also like to know what was being done to ensure accessibility in health-care services, such as providing sign language interpretation and information in Braille and adapting medical facilities and equipment to make them accessible to persons with disabilities.

30. Employment rates among persons with disabilities were currently quite low. She therefore wished to know what steps the State party was taking to ensure full and productive employment and the enjoyment of an adequate standard of living for such persons, in line with articles 27 and 28 of the Convention and Sustainable Development Goals 8 and 10. She would also appreciate information on social benefits available to parents of children with disabilities. Lastly, she wondered how the State party intended to mainstream the issue of disability into its work on the 2030 Agenda for Sustainable Development and how persons with disabilities and their representative organizations would be involved in that work.

31. **Mr. Langvad** expressed concern at the low school enrolment rates of children and young persons with disabilities in the care of the State, three quarters of whom were excluded from education. He asked what steps were being taken to ensure that all teachers received training on inclusive education, to redirect resources within the mainstream school system to support students with disabilities and to achieve a common understanding of inclusive education in the State party that complied with the Convention.

32. **Ms. Quan-Chang** said that, with regard to acts of sexual violence against women with disabilities during the armed conflict, she wished to know whether the peace accord contained a commitment to trying non-military cases before civilian courts, rather than military courts.

33. She asked whether measures had been taken to lift the restrictions on the right of persons who had been deprived of legal capacity to marry and to found a family. Noting that local authorities appeared to be the source of many violations of the right to inclusive education, given their responsibility for schools, she asked how it could be ensured that they understood their duty to implement the relevant provisions of the Convention. She expressed concern at the lack of protocols for informed consent to medical treatment and surgery, the absence of sexual and reproductive health services for persons with disabilities, the prejudice against those persons manifested by members of the medical profession, and

the use of a medical model for assessing disability that failed to take account of the barriers encountered by persons with disabilities and could thus result in the impact of their disability being understated.

34. Regarding social protection, she said it was still not clear to her how disability was mainstreamed into policies to combat poverty. It was important, in the context of the peace accord, for persons with disabilities to be included in the reparation process and for them to be eligible for reparation without having to waive their legal capacity. Also with regard to social protection, she wondered how the State party planned to address the situation of persons with disabilities who lacked access to housing and basic services.

35. Noting that persons who were deprived of legal capacity also lost their right to vote, she asked how the State party would ensure that those persons were able to participate in the upcoming referendum on the peace accord and how persons with disabilities would be informed about the plebiscite. She also wished to know how the registration procedure for organizations of persons with disabilities would be improved, since information received by the Committee indicated that the administrative process was too onerous for organizations with fewer resources.

36. Lastly, she asked what measures would be taken to designate an independent monitoring mechanism; whether the Ombudsman's Office would play a role in monitoring; whether the staff of the mechanism would include disability and health experts, as had been recommended by the Global Alliance of National Human Rights Institutions; and how organizations of persons with disabilities would be involved in the mechanism.

37. **The Chair** said she hoped that the delegation would provide a fuller answer to the question she had put at the previous meeting concerning the due process guarantees for persons with disabilities who were charged with committing a crime, the measures that were taken when a person with a disability was declared unfit to stand trial and the safeguards that existed to protect such persons.

38. She wondered how the State party planned to implement Sustainable Development Goal 1, on eradicating poverty. With regard to article 25 of the Convention, she would appreciate information on training programmes and continuous development for medical personnel to ensure the provision of optimum care for persons with disabilities, in accordance with Sustainable Development Goal 3. Given that the law on labour market inclusion reportedly discouraged employers from hiring persons with disabilities, she wished to know whether the State party had considered measures to eliminate the labour market distortions to which the law had given rise. Lastly, she asked what measures had been taken under article 31 of the Convention to introduce a specific matrix for statistics on persons with disabilities, with a view to using that data to adopt appropriate policies and legislation.

The meeting was suspended at 11.35 a.m. and resumed at 12.10 p.m.

39. **Ms. Nieto Alzate** (Colombia) said that persons declared unfit to stand trial were afforded that protection on the basis of mental disability or psychological immaturity, as provided for in law. The relevant determination was made by a judge. Such persons were placed in psychiatric institutions, under the care of the local health authorities. The resources required to care for them were allocated by the Ministry of Health and Social Protection, which was also responsible for arranging family visits. The Government recognized that action was needed to amend the legislation on legal capacity and was taking the necessary steps, as had been described previously.

40. **Ms. Botero Hernández** (Colombia) said that the prevalence of suicide, particularly among indigenous persons, had been revealed by a mental health survey carried out in 2015. The survey had improved knowledge of the profile of persons likely to commit suicide.

Initiatives had been taken to train health-care professionals in mental health diagnostics and referrals, and the quality and continuity of mental health services had been enhanced. Mental health was recognized as a crucial element in the implementation of the peace accord. Broad discussions had taken place at the community level on mental health needs.

41. **Ms. Nieto Alzate** (Colombia) said that sexual abuse and incest affected children with and without disabilities. The penalties provided for in Act No. 1329 of 2009 for perpetrators of sexual offences against minors had been increased. The commission of such an offence by a foreign tourist or a member of an illegal armed group was an aggravating factor. Under Act No. 1142 of 2007, if the victim of a sexual offence was a child with a disability, that too was an aggravating factor. Combating incest required cultural change. A telephone hotline for reporting sexual abuse had been established and operated around the clock, and awareness-raising activities focusing on sexual abuse were carried out in schools. The Colombian Family Welfare Institute had a specialized team that included psychologists and specialist lawyers to investigate complaints of sexual abuse and ensure timely intervention for child and adolescent victims, including those with disabilities. The number of complaints received to date in 2016 was higher than in previous years. One protection measure provided for in law was the removal of victims from their abuser, which, in the case of a mother, meant that her children too were moved; the aim was to prevent the abuser from transferring his or her behaviour to another family member.

42. **Ms. Cubides** (Colombia) said that, for the first time, the budget allocated to education exceeded that allocated to fighting war. Educational inclusion was viewed as a process that had begun with the ratification of the Convention. All public-sector schools provided inclusive services and were required to accept students with disabilities; the State did not invest in segregated services.

43. The low school enrolment rate of children with disabilities was mostly due to the attitudes of families, who needed to be convinced that their children would receive appropriate services in a school setting. The number of children with disabilities enrolled in school had increased by 60 per cent over the past five years, and 70 per cent of educational institutions now included children with disabilities in their student body. Schools received a 20 per cent premium for each child with a disability on their roll. Those extra funds were spent exclusively on care and support for children with disabilities. Additional funds were needed, however, to ensure that every child with a disability, in every school, received adequate care and support.

44. A key challenge was the lack of qualified human resources, including teachers and specialized interpreters. In 2017, a university course for interpreters would be launched and official certification introduced in order to professionalize the occupation. There was one classroom assistant per 34 students, which indicated progress, although more classroom assistants were needed. Pupils' transition from special to mainstream schools required careful handling. Curricula needed to be adapted for different abilities and disabilities, and the case of each child with a disability addressed individually.

45. While private schools did have entry requirements, any parent who felt that his or her child had been refused entry to a school on the basis of the child's disability had the right to lodge a complaint with the Ministry of National Education. While several such cases had been signalled in the past, the Ministry was aware of the need to address the problem of underreporting. About 90 per cent of children with disabilities who attended school went to State schools.

46. There were currently about 20,000 students with disabilities in tertiary education. In addition, the National Learning Service, a government body that promoted vocational training, had organized technical and technological training for some 60,000 persons with disabilities, who were now employed. Research conducted in 10 cities had found that some

500 persons with disabilities were currently studying for university degrees in areas such as architecture, education, engineering and fine arts. While about 80 per cent of them already had classroom support, the Government was committed to investing more money and continuing its efforts to guarantee that all children and young persons with disabilities in the country enjoyed the right to inclusive education.

47. **Mr. Salazar** (Colombia) said that, under the current legislation, an employer who wished to dismiss a person with a disability had to apply to the Ministry of Labour for permission to do so. The unintended consequence of the legislation, which was aimed at protecting employees with disabilities, was that employers preferred not to hire such persons. Research had found that the law had become the biggest barrier to access to employment for persons with disabilities in Colombia. Many civil society organizations had therefore called for the relevant legislative provision to be repealed, and a bill to that end was awaiting consideration by Congress.

48. **Mr. Valencia** (Colombia) said that the Government was committed to implementing the 2030 Agenda for Sustainable Development, in which States had pledged that no one would be left behind, including persons with disabilities. The national coordination body responsible for implementation of the 2030 Agenda had identified article 32 of the Convention as one of the tools at its disposal. In keeping with the spirit of the Convention, the rights of persons with disabilities had been mainstreamed into the 2015-2018 road map on international cooperation. Likewise, Act No. 1618 of 2013 guaranteed that all the country's international cooperation projects would be inclusive and accessible, including the South-South cooperation projects in which it was involved. Several challenges had been identified with regard to the implementation of the 2030 Agenda, including the definition of national indicators — notably on persons with disabilities — and the need to raise awareness among local authorities in order to ensure that local development plans took account of the Agenda and the inclusion of persons with disabilities.

49. **Mr. Salazar** (Colombia) said that ballot papers were available in Braille. However, polling stations were not always accessible. When persons with disabilities were unable to enter polling stations, election officers would find a way to ensure that they could exercise their right to vote by, for example, taking a ballot paper and ballot box to them. The Government was aware of the need to improve that situation.

50. There were no quotas for the election of persons with disabilities to Congress. However, there were several members of Congress, ministers and persons in positions of significant authority with disabilities in the country, and some 4.6 per cent of civil servants were persons with disabilities.

51. **Ms. Nieto Alzate** (Colombia) said that, under Act No. 1145/2007 organizing the National Disability System, organizations of persons with disabilities and of parents of persons with cognitive disabilities were represented on the National Disability Council. The requirements were demanding in terms of training and experience in the field of disabilities. Travel and interpretation costs for members with disabilities were covered by the authorities. At local level, organizations of persons with disabilities elected their representatives on the municipal disability councils in accordance with the Act, and spokespersons from the municipal councils were then elected to represent the municipality on the departmental disability councils. Efforts were currently under way to transfer the entire disability system from the Ministry of Health and Social Protection to the Ministry of the Interior, which handled all human rights issues. That would facilitate more open, democratic elections to all the disability councils.

52. **Mr. Salazar** (Colombia) said that persons without legal capacity did not enjoy the right to marry or to vote. However, work was under way to amend the current legislation on

legal capacity in order to ensure that such persons would in the future enjoy those and other rights.

53. **Ms. Nieto Alzate** (Colombia) said that persons with disabilities could apply for free housing and for social housing, depending on their economic situation. To date, some free housing had been assigned to families with persons with disabilities, usually on the ground floor of apartment blocks. Measures were being taken to ensure that communal spaces in such buildings were accessible. While there were no quotas in place for the allocation of free and social housing to persons with disabilities, disabilities were taken into account when applications were considered. Between 2003 and 2016, some 7,691 families with persons with disabilities had been allocated free or social housing. In rural areas, an ambitious programme was under way to build new accessible housing, and grants were available for improvements to homes in rural areas, including in order to make them accessible.

54. **Ms. Cubides** (Colombia) said that the 1996 media law providing that television should be accessible to deaf persons had not been fully implemented. Efforts to address that situation had culminated in a government ruling in 2016 requiring that, as from July 2017, all television programmes must be subtitled. It also stipulated that all presidential broadcasts and at least two other such programmes must have sign language interpretation. In 2016, interpretation had been provided for all presidential and governmental broadcasts. The National Institute for the Deaf was working with public and private television channels to set up a channel on which all programmes would have sign language interpretation and deaf persons would be employed as producers. Eventually, the aim was to make all television programmes on all channels accessible to deaf persons.

55. **Mr. Salazar** (Colombia) said that the independent monitoring, protection and promotion mechanism consisted of the Attorney General's Office, the Ombudsman's Office, the Comptroller's Office and representatives of organizations of persons with disabilities. Efforts were under way to amend the regulations pertaining to the election of representatives of organizations of persons with disabilities to the mechanism in order to ensure that the process was fully democratic. Under the current regulations on the mechanism, the executive assigned specific functions to the Attorney General's Office, the Ombudsman's Office and the Comptroller's Office, and the Ministry of Justice and Law was responsible for allocating its financial resources, all of which diminished the mechanism's overall independence. A team of lawyers was examining possible solutions. There were experts in issues relevant to persons with disabilities in the Ombudsman's Office.

56. **Ms. Nieto Alzate** (Colombia) said that Act No. 1751/2015 recognized the fundamental right to health as autonomous and inalienable. Article 11 of the Act provided that persons with disabilities had the right to special protection, regardless of their financial status. Following the adoption of the Act, a new policy had been developed on comprehensive health care, recognizing the need for differentiated measures for specific sectors of Colombian society, including for persons with disabilities. In addition, over the past three years, steps had been taken to ensure that all health care was accessible to persons with disabilities and to remove barriers to communication. Nonetheless, persons with disabilities still faced barriers in the exercise of their rights to sexual and reproductive health, persons without legal capacity continued to be sterilized, and there was a lack of obstetric and gynaecological health workers trained to treat patients with disabilities. Measures were being taken to incorporate relevant modules into the professional training of all health personnel and to raise awareness among families of persons who lacked legal capacity about those persons' rights.

57. Some 46 per cent of persons with disabilities were included in at least one social protection programme. Over 50,000 families of persons with disabilities had received assistance under the strategy for combating extreme poverty.

58. **Mr. Salazar** (Colombia) said that the census data were now out of date as the last census had been conducted in 2005. A consultancy specializing in gathering data on persons with disabilities would be involved in the forthcoming census. Sign language had been an official State language since 1996. Many classic works of Colombian literature, including *One Hundred Years of Solitude*, were available in Braille.

59. The delegation was grateful to the Committee for its constructive questions and comments, which would assist the Government to refocus its priorities, in cooperation with civil society.

The meeting rose at 1.05 p.m.